

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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|--|---|---------------------------|
| In the Matter of |) | File Number EB-02-OR-317 |
| |) | |
| Best Country Broadcasting, LLC |) | NAL/Acct. No.200332620009 |
| Owner of Antenna Structure at Latitude 30° 50' |) | |
| 29" North and Longitude 089° 50' 06" West |) | FRN 0007-9006-99 |
| Bogalusa, Louisiana |) | |

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: February 19, 2003

By the Enforcement Bureau, New Orleans Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find Best Country Broadcasting, LLC ("Best Country"), owner of antenna structure located at 30° 50' 29" North Latitude and 089° 50' 06" West Longitude, Bogalusa, Louisiana, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules ("Rules").¹ Specifically, we find Best Country apparently liable for failing to register its antenna structure.

II. BACKGROUND

2. On October 9, 2002, an agent from the FCC Enforcement Bureau's New Orleans Office inspected Best Country's antenna structure utilized by AM broadcast station WBOX in Bogalusa, Louisiana.² WBOX's general manager confirmed that Best Country owns the antenna structure. At the time of the inspection, no antenna structure registration number was displayed at the base of the structure. The structure is approximately 74 meters in height (242 feet) and is lighted and painted. On October 10, 2002, the FCC's Antenna Structure Registration database had no record that this structure was registered with the Commission.

III. DISCUSSION

3. Section 17.4(a) of the Rules requires that the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration must

¹ 47 C.F.R. § 17.4(a).

² Best Country is licensee of radio station WBOX as well as owner of the antenna structure used by the station.

register the structure with the Commission. Best Country owns the antenna structure used by station WBOX in Bogalusa, Louisiana. This structure requires notice of proposed construction, and therefore Commission registration, because the structure's height exceeds 200 feet.³ On October 9 and 10, 2002, Best Country did not have their antenna structure in Bogalusa, Louisiana registered with the Commission.

4. Based on the evidence before us, we find Best Country willfully⁴ and repeatedly⁵ violated Section 17.4(a) of the Rules by failing to register its antenna structure with the Commission.

5. Pursuant to Section 1.80(b)(4) of the Rules,⁶ the base forfeiture amount for failure to register the antenna structure (failure to file required forms) is \$3,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷ Considering the entire record and applying the factors listed above, this case warrants a \$3,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ Best Country Broadcasting, LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules by failing to register its antenna structure with the Commission.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Best Country Broadcasting, LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the

³ See 47 C.F.R. § 17.7(a).

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁵ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁶ 47 C.F.R. § 1.80(b)(4).

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

12. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Best Country Broadcasting, LLC, P.O. Box 280, Bogalusa, Louisiana 70429-0280.

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins
District Director, New Orleans Office
Enforcement Bureau

Attachment

¹⁰ See 47 C.F.R. § 1.1914.